

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HERITAGE REALTY MANAGEMENT,)	Case No. CA 04 - 333 ERIE
INC.,)	
Plaintiff)	Judge Sean McLaughlin
)	
v.)	
)	
JOHN ALLIN d/b/a ALLIN COMPANIES,)	
Defendant)	TRIAL BY JURY OF 12 DEMANDED

DEFENDANT'S MOTION FOR TRIAL CONTINUANCE

AND NOW, the Defendant, by and through his counsel of record, ELDERKIN, MARTIN, KELLY & MESSINA, files the following Motion for Trial Continuance, respectfully representing as follows:

1. By notice issued on June 21, 2006, the Court advised that this case would be listed on the August, 2006 term of court, which term commences on August 7, 2006.
2. Defendant has prearranged business trips for his current employer which would make him unavailable for significant portions of the August trial term as follows:

August 6 - August 9 – business trip destination: Alaska
August 13 - August 21 – business trip destination: Dalian, China

These business trips are critically important to Defendant and to his employer and these trips have been coordinated with the calendars of a number of business and governmental representatives.

3. Additionally, defense counsel has a prearranged vacation scheduled out of the state which would make him unavailable for trial from August 4 through August 9, 2006.

4. After consultation with Plaintiff's counsel, it was learned that Plaintiff's counsel has a trial set in another matter to be held during the week commencing August 21, 2006.

5. No prior trial continuance has been requested, although the Plaintiff had previously filed and the court granted a motion to extend the case management order [Doc. #38].

6. The Defendant respectfully requests that the Court schedule the trial of this matter to commence no earlier than August 28, 2006, so as to avoid the scheduling conflicts of both parties. In this regard, the Defendant requests that the trial be continued to the next available term if the aforementioned conflicts would make it difficult for the court to set the trial for the August, 2006 term. However, the Plaintiff has expressed an interest in having this matter called for trial during the August, 2006 term and, therefore, the Plaintiff consents to this request

for a trial continuance only if this Honorable Court could schedule the trial during this term and at a date which would avoid the week commencing August 21, 2006.

WHEREFORE, the Defendant respectfully requests this Honorable Court grant its motion for trial continuance.

Respectfully submitted,

ELDERKIN, MARTIN, KELLY & MESSINA

By /s/ Craig A. Markham, Esquire

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